

\* The original of this document contains information which is subject to withholding from disclosure under 5 U.S.C. 552. Such material has been deleted from this copy and replaced with XXXXXXX's.

October 18, 2004

DEPARTMENT OF ENERGY  
OFFICE OF HEARINGS AND APPEALS

*Hearing Officer's Decision*

Name of Case: Personnel Security Hearing

Date of Filing: April 13, 2004

Case Number: TSO-0091

This Decision considers the eligibility of XXXXXX XXXXXX XXXXXX (hereinafter referred to as "the individual") to hold an access authorization under the regulations set forth at 10 C.F.R. Part 710, entitled "Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material." As explained below, it is my decision that the individual should not be granted access authorization.

I. BACKGROUND

The individual is an employee of a Department of Energy (DOE) contractor. In late 2000, the individual's employer requested that the individual be granted a DOE access authorization, and a background investigation revealed some potential concerns to the DOE. The DOE conducted a Personnel Security Interview with the individual in July 2001 (the 2001 PSI) and again in May 2002 (the 2002 PSI). In addition, at the request of DOE security, the individual was evaluated in September 2002 by a DOE-consultant psychiatrist (hereafter "the DOE consultant-psychiatrist"), who issued a letter containing his findings and recommendations. In January 2004, the Manager for Personnel Security of the DOE area office where the individual is employed (the Manager) issued a Notification Letter to the individual. In this letter, the Manager stated that the individual's behavior has raised security concerns under Sections 710.8(j) and (l) of the regulations governing eligibility for access to classified material. With respect to Criterion (j), the Manager finds that the DOE consultant-psychiatrist diagnosed the individual as someone who is currently a user of alcohol habitually to excess, and who has been alcohol dependent in the past. The DOE consultant-psychiatrist also finds

that the individual has not shown adequate evidence of rehabilitation or reformation inasmuch as he continues to drink despite his history of Alcohol Dependence. The Notification Letter also refers to the individual's arrests for Driving Under the Influence/Driving While Intoxicated (DUI/DWI) in 1973, 1978, 1991 and 1994 and to statements made to the DOE at his 2001 PSI. At that PSI, the individual discussed his alcohol related arrests and previous alcohol counseling, and stated that he continued to drink moderately. He also stated that in the past he has had to leave employment because of alcohol and has gone to work hung over.

With respect to Criterion (1), the Notification Letter cites certain information as indicating that the individual engaged in unusual conduct tending to show he is not honest, reliable or trustworthy, or which furnishes reason to believe that he may be subject to pressure, coercion, exploitation or duress. Specifically, it refers to the individual's alcohol related arrests in 1973, 1978, 1991 and 1994. It states that he did not list the 1973 and 1978 arrests on his 2001 Questionnaire for Sensitive Positions (QNSP), and that he indicated to an OPM investigator that he was arrested for DUI in 1987 and did not subsequently report or discuss this arrest with the DOE. The Notification Letter also finds that the individual's decision to continue drinking alcohol with his history of alcohol problems raises a Criterion (1) concern.

The individual requested a hearing to respond to the concerns raised in the Notification Letter. In his February 10, 2004 response to the Notification Letter, the individual admitted the DWI's and the statements listed as points of concern in the Notification Letter. He did not specifically object to the DOE consultant-psychiatrist's diagnosis of an alcohol problem, but contended that the DOE consultant-psychiatrist's conclusion that he had not demonstrated rehabilitation did not adequately consider the progress that he had made in controlling his use of alcohol over the past ten years. He asserted that he has not arrived at work hung over in over fifteen years, and that since 1994 he has progressively cut down on his use of alcohol. 1/ The requested hearing in this matter was convened in August 2004 (hereinafter the

---

1/ In his response, the individual stated that he had not consumed alcohol in almost two months and that he was continuing to attend Alcoholics Anonymous (AA) meetings. However, at the Hearing, he stated that he had resumed drinking and had stopped attending AA meetings shortly after he submitted his response to the DOE.

"Hearing"), and the testimony focused chiefly on the concerns raised by the individual's past pattern of alcohol consumption, and on the individual's efforts to mitigate those concerns by demonstrating that he has reduced and controlled his use of alcohol in recent years.

## II. REGULATORY STANDARD

In order to frame my analysis, I believe that it will be useful to discuss briefly the respective requirements imposed by 10 C.F.R. Part 710 upon the individual and the Hearing Officer. As discussed below, Part 710 clearly places upon the individual the responsibility to bring forth persuasive evidence concerning his eligibility for access authorization, and requires the Hearing Officer to base all findings relevant to this eligibility upon a convincing level of evidence. 10 C.F.R. §§ 710.21(b)(6) and 710.27(b), (c) and (d).

### A. The Individual's Burden of Proof

It is important to bear in mind that a DOE administrative review proceeding under this Part is not a criminal matter, where the government would have the burden of proving the defendant guilty beyond a reasonable doubt. The standard in this proceeding places the burden of proof on the individual. It is designed to protect national security interests. The hearing is "for the purpose of affording the individual an opportunity of supporting his eligibility for access authorization." 10 C.F.R. § 710.21(b)(6). The individual must come forward at the hearing with evidence to convince the DOE that restoring his access authorization "would not endanger the common defense and security and would be clearly consistent with the national interest." 10 C.F.R. § 710.27(d). *Personnel Security Review (Case No. VSA-0087)*, 26 DOE ¶ 83,001 (1996); *Personnel Security Hearing (Case No. VSO-0061)*, 25 DOE ¶ 82,791 (1996), *aff'd*, *Personnel Security Review (VSA-0061)*, 25 DOE ¶ 83,015 (1996). The individual therefore is afforded a full opportunity to present evidence supporting his eligibility for an access authorization. The regulations at Part 710 are drafted so as to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. 10 C.F.R. § 710.26(h). Thus, by regulation and through our own case law, an individual is afforded the utmost latitude in the presentation of evidence which could mitigate security concerns.

Nevertheless, the evidentiary burden for the individual is not an easy one to sustain. The regulatory standard implies that there is

a presumption against granting or restoring a security clearance. See *Department of Navy v. Egan*, 484 U.S. 518, 531 (1988) ("clearly consistent with the national interest" standard for the granting of security clearances indicates "that security determinations should err, if they must, on the side of denials"); *Dorfmont v. Brown*, 913 F.2d 1399, 1403 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991) (strong presumption against the issuance of a security clearance). Consequently, it is necessary and appropriate to place the burden of persuasion on the individual in cases involving national security issues. In addition to his own testimony, we generally expect the individual in these cases to bring forward witness testimony and/or other evidence which, taken together, is sufficient to persuade the Hearing Officer that restoring access authorization is clearly consistent with the national interest. *Personnel Security Hearing (Case No. VSO-0002)*, 24 DOE ¶ 82,752 (1995); *Personnel Security Hearing (Case No. VSO-0038)*, 25 DOE ¶ 82,769 (1995) (individual failed to meet his burden of coming forward with evidence to show that he was rehabilitated and reformed from alcohol dependence).

#### *B. Basis for the Hearing Officer's Decision*

In personnel security cases under Part 710, it is my role as the Hearing Officer to issue a decision as to whether granting an access authorization would not endanger the common defense and security and would be clearly consistent with the national interest. 10 C.F.R. § 710.27(a). Part 710 generally provides that "[t]he decision as to access authorization is a comprehensive, common-sense judgment, made after consideration of all relevant information, favorable and unfavorable, as to whether the granting or continuation of access authorization will not endanger the common defense and security and is clearly consistent with the national interest." 10 C.F.R. § 710.7(a). I must examine the evidence in light of these requirements, and assess the credibility and demeanor of the witnesses who gave testimony at the hearing.

#### *III. HEARING TESTIMONY*

At the Hearing, testimony was received from nine persons. The DOE presented the testimony of a personnel security specialist and the DOE consultant-psychiatrist. 2/ The individual testified and

---

2/ As indicated by his testimony (TR at 22-23), the DOE consultant-psychiatrist has been in practice for over twenty-  
(continued...)

presented the testimony of his girlfriend, his brother, his son, his former workplace supervisor, a co-worker, and a friend/co-worker.

*A. The Personnel Security Specialist*

The DOE personnel security specialist explained that the DOE's criterion (j) and criterion (l) concerns arose from the individual's use of alcohol and his repeated arrests for driving while intoxicated. She stated that if the individual successfully mitigated the DOE's criterion (j) concerns regarding his diagnosis concerning excessive use of alcohol by demonstrating rehabilitation or reformation, he also would help to mitigate the DOE's criterion (l) concern that future alcohol use by the individual would result additional alcohol related illegal activity. Hearing Transcript (TR) at 21.

*B. The DOE Consultant-Psychiatrist*

The DOE consultant-psychiatrist testified that in September 2002 he reviewed the individual's personnel file and then interviewed the individual for approximately one hour concerning his history of alcohol use. He testified that the individual's history of alcohol use raised some serious concerns, especially from the beginning of his marriage in about 1975 through about 1994.

He had begun drinking while in high school, but denied that there was an abusive pattern then. But during his married years he states he would drink approximately 12 beers a day, virtually seven days a week, and that this pattern actually went on for ten years. He was arrested five times for driving while intoxicated . . . . He had no really clear recollection of the first four of these in that he likely was so intoxicated as to have some memory difficulties as a result. He did have a clear recollection of the final one of the five, which did occur in 1994 when he was injured physically, very seriously, and apparently his life was in danger from the accident. It was at that time that I believe he tried to come to some terms with the excessive use of alcohol so

---

2/(...continued)

nine years and has extensive clinical experience in diagnosing and treating alcohol related illnesses. He clearly is qualified as expert witnesses in that area.

that he would not be involved in further legal problems or jeopardize his well being.

TR at 26. The DOE consultant-psychiatrist also stated that he was concerned that in 1990 the individual was arrested for contributing to the delinquency of a minor because his son, who was in his custody, was chronically truant from school. TR at 28. On the basis of the individual's history of alcohol use from 1975 through 1994, the DOE consultant-psychiatrist stated that the individual met six of the seven criteria for alcohol dependence specified by the Diagnostic and Statistical Manual of American Psychiatry, Fourth Edition (DSM-IV). Only three criteria are necessary to reach a diagnosis of alcohol dependence. The DOE consultant-psychiatrist acknowledged that the individual has had no problems with driving intoxicated since 1994 and has been controlling his drinking for several years. However, he believes that the individual's history of alcohol dependence requires the individual to maintain complete abstinence from alcohol to avoid future problems.

So [the individual] was diagnosed by me as having been, in the past, alcohol dependent. Now, when such a diagnosis is made, it's critical that the person be totally abstinent in the future. People who drink in moderation who have been alcohol dependent almost always fail over time. . . .

The problem here comes with the fact that he continues to drink, not that he hasn't moderated his alcohol use, which I think is also not in dispute, he has been moderate in his consumption. He has, to my knowledge, not had further DUIs. But he continues to have a rather limited understanding of the impact of alcohol on him. And he continues to be in a degree of denial about the very serious nature of his condition, and that if he continues to drink he's subject to decompensation in the future.

TR at 31-32. The DOE consultant-psychiatrist stated that the individual's continued consumption of alcohol posed a significant risk that he would relapse.

. . . I cannot offer any assurance that with [the individual] continuing to drink, even though in what appears to be a controlled moderate amount, that he won't relapse into a state of dependency again, that he won't have some serious period of intoxication again, and he

won't, as a result, become lacking in judgment and reliability. I'm not disputing that [the individual] has made strides in the right direction, but I do feel that he has not come far enough.

TR at 32. The DOE consultant-psychiatrist testified that in his report, he recommended that in order to demonstrate rehabilitation from his alcohol dependency, the individual should abstain from alcohol for a full year and should attend AA meetings, where he could gain knowledge about the impact of alcohol on his psyche and his physiology. TR at 32. At the hearing, he emphasized that even after completing a year of sobriety, the individual would have to maintain abstinence in order to keep his risk of relapse to an acceptable level.

[The individual] is not alcohol dependent now. He was in the past. And the implications of having had the diagnosis of alcohol dependency at one time in one's life means that if you drink again, statistically you're in an extraordinarily high risk category to relapse back to a state of alcohol dependency. He does continue to drink at a moderate level, although controlled. And that's the risk factor that I'm concerned about. There are very, very few alcoholics, people who have been alcohol dependent, who can continue to drink and maintain that moderate level of consumption indefinitely. And it really is a matter of him becoming abstinent before I would feel that he, or anyone who had been alcohol dependent, would be rehabilitated.

TR at 39-40.

Despite his strongly expressed opinion that any drinking by the individual posed an unacceptable risk of relapse, the DOE consultant-psychiatrist testified that he would listen to the testimony of the individual and his witnesses at the Hearing and reevaluate his opinion based on any new information. TR at 37. After hearing the testimony of the individual and his witnesses, the DOE consultant-psychiatrist stated that the testimony clearly indicated that the individual has moderated his drinking. However, he testified that he remains concerned that the individual's current social drinking will lead him to relapse into an alcohol dependent condition.

There seems to be uniform testimony that whenever people are out with him, he's having one or two beers, maybe three or four, that he's careful to not drink too much

and then drive, but that he continues to use alcohol socially almost all the time that he is socializing with his friends, and that concerns me. It concerns me because of his history of alcohol dependency, as I had said initially, and that while he's in control now, and the amount of drinking that he's doing is moderate and not posing a significant problem, that there is, nonetheless, a probability that this kind of casual drinking socially will lead to some kind of recurrence and/or relapse back into a more dependent state, and that's the kind of thing that would pose a reliability and judgment concern.

TR at 95-96. He stated that he continued to believe that only abstinence from alcohol would lower the individual's risk of having alcohol related problems to an acceptable level. TR at 97-98.

### *C. The Individual*

The individual, who is in his fifties, testified that things are going very well in his life at the present time, with a grandchild and a new girlfriend. He stated that he currently consumes alcohol moderately in social situations. He stated that he maintained sobriety and attended AA for about two months at the beginning of 2004, but that he did not like it and is convinced that he can drink in moderation.

[My girlfriend and I] do not do anything in excess, which means that I haven't abstained totally. . . . That will come out here. There are periods of time when I did go to AA and when I didn't drink, like the first of this year for two months or whatever. . . . I used to live over an AA. And I just really don't like going and hearing people's stories. It is an awful lot like what my story was. But I do believe that you can do it in moderation, and I do. And the reason for having the witnesses is, you can listen to them, if you don't agree, you don't agree.

TR at 43. He stated that the last time he drank was at his son's house on the Sunday before the Hearing when he had two beers. TR at 43-44. He stated that it has been at least a couple of weeks since he consumed alcohol at a bar. TR at 46. The individual asserted that his social drinking would not lead to another serious alcohol-related incident because he has learned to avoid trouble when he drinks.



But like I say, in the ten years [since 1994] I've never gotten into any trouble. Now, I can go another ten years. It's easier and easier. . . . I know what's expected of me, but being me and never expecting to get a clearance and being wild and being stupid and irrational, yeah, I got into a lot of trouble. But hopefully I left that behind me. . . . You have to be responsible. And I'm doing my best to be responsible. I don't ever see getting drunk behind the wheel and getting pulled over. I don't foresee that because I don't get myself into those situations again.

TR at 48. When asked about whether he currently drinks and drives, the individual stated that he drove home from a visit with his son after drinking two beers. TR at 49. He testified that with respect to his current level of drinking, he does not limit himself to a specific number of drinks, but believes that he knows his limitations. TR at 51.

The individual also was questioned about a statement that he made in his response to the Notification Letter that he had completed an 18 month recovery program and attended AA. He stated that he participated in a court-ordered program in the 1999 to 2001 time frame because he had not completed the requirements arising from his 1994 DUI. He stated that he only attended AA for a portion of this period and did not maintain total sobriety. TR at 59-60.

In his response to the Notification Letter, the individual stated that his job "is my highest priority and I take it quite seriously." Response at 4. At the Hearing, he reiterated that he does not intend to let anything interfere with his job [TR at 57] and wants the opportunity to be allowed to continue working. TR at 102.

#### *D. The Individual's Girlfriend*

The individual's girlfriend testified that she has been dating the individual for a little over one year. She stated that when the individual comes to her home for dinner, they often have several glasses of wine.

. . . we'll sit and talk and have a glass of wine when we're talking and then we eat. And then we'll have another one, while you're eating, and then maybe one or two later, after you eat and stuff.

TR at 69. She testified that she and the individual are both careful to limit their consumption when they have to drive afterwards. On those occasions they have one or at most two glasses of wine. TR at 70. She stated that she has never seen the individual intoxicated. TR at 69.

*E. The Individual's Brother*

The individual's brother stated that they often socialize together on the weekends, watching football or other sports, or having barbecue. TR at 77. He stated that they often drink beer when they get together. He testified that they got together on the previous Friday night, and on that occasion the individual consumed about five beers. TR at 78. He stated that he and his brother are careful not to drink and drive.

I know when we get together and have a few [beers], we spend the night. We make it a nightly thing. I'm sure he's had enough of them [DUI's] that he don't want any more.

TR. 79. He also testified that the individual has cut down on his drinking in recent years. *Id.*

*F. The Individual's Son*

The individual's son testified that the individual has moderated his drinking significantly in recent years. He testified that visits with his father are generally brief, and that he stays in contact with him mostly by telephone. He stated that he never sounds intoxicated on the telephone. He also stated that he has not observed his father drinking and driving. TR at 73-75.

*G. The Former Workplace Supervisor*

The individual's workplace supervisor testified that he supervised the individual for about three and a half years until April 2004. He stated that during this period, the individual never missed a day of work and was always on time. He also stated that he never saw the individual come to work hung over or slightly intoxicated. He testified that on the two or three occasions when his work team socialized, he observed the individual consume alcohol, but never saw him "overdoing it". TR at 83-87. 3/

---

3/ At the Hearing, the individual submitted a letter from his  
(continued...)

#### H. *The Individual's Co-worker*

The individual's co-worker testified that he has worked with the individual since the individual arrived at the DOE facility [in late 1999]. He stated that he has never seen the individual at work drunk, never smelled alcohol on his breath, and never heard anyone complain about the individual's use of alcohol. TR at 62. He stated that he's been out with the individual socially a couple of times

and I haven't noticed any heavy drinking, other than just a couple of beers, three or four sometimes, but just like everybody else, I mean. But I've never seen him just sit there and drink and drink and drink, I've never seen that. I've never heard of anybody that complained about that.

TR at 63.

#### I. *The Individual's Friend/Co-worker*

The Individual's friend/co-worker testified that he has known the individual since they began working together [in late 1999]. He stated that he works with the individual on a daily basis and socializes with him once or twice a month, bowling or watching sporting events on television. He testified that he has never seen the individual intoxicated or drunk. He stated that he last saw the individual consume alcohol about two weeks prior to the hearing when he visited the individual's house and the individual consumed "one or two" beers. TR at 90-93. He stated that he has seen the individual consume three or four beers when they are watching a game together at the individual's home. TR at 94.

---

3/(...continued)

current supervisor. In this letter, the current supervisor states that recommends the individual for his competence, experience and good working relationships. He does not directly address the issue of alcohol consumption, but states that the individual is a "faithful employee who is very punctual." Individual's Hearing Exhibit 4.

#### IV. ANALYSIS

##### A. Criterion (j) Concerns

The individual contends that he is rehabilitated from the security concerns related to the diagnosis of alcohol dependence because he has had no DUIs or other alcohol related arrests since 1994 and has reduced his alcohol consumption to the level of moderate, social drinking. The individual also asserts that he strongly desires to continue working for his current employer and will not do anything to jeopardize his position with his employer, including abusing alcohol. For the reasons stated below, I conclude that these arguments do not resolve the security concerns.

At the Hearing, the individual testified that over the last ten years, he has successfully moderated his drinking, and that he is careful to avoid alcohol related legal problems. His girlfriend and his brother both testified that the individual is careful not to drive after he has consumed several beers or glasses of wine. His former supervisor and co-worker's testified that he is a good worker with a good attendance record, and that they have never observed him intoxicated or hung over in the workplace. They also testified that his consumption of alcohol at social gatherings has been moderate.

However, I am not persuaded that the individual's current behavior mitigates the concerns arising from his previous diagnosis of alcohol dependence. I accept the diagnosis of the DOE consultant-psychiatrist that the individual was alcohol dependent for a considerable period of his adult life. This diagnosis rests on the heavy drinking and associated legal problems that the individual experienced in the period from 1975 through 1994. I also accept the DOE consultant-psychiatrist's opinion that the individual remains at substantial risk for future alcohol problems as long as he continues to drink. The DOE consultant-psychiatrist considered the individual's entire history of alcohol use through August 2002. His report specifically recognizes that the individual did not drink excessively or incur any alcohol related legal problems after 1994. Nevertheless, the DOE consultant-psychiatrist found in his report that the individual's diagnosis of alcohol dependence requires that individual demonstrate a full year of abstinence and involvement in a recovery program such as AA in order to show rehabilitation.

At the Hearing, the individual presented the testimony of himself and others which establishes that he continued to drink moderately and has avoided any alcohol related legal problems in the two years

since his evaluation by the DOE consultant-psychiatrist. After hearing this new evidence, the DOE consultant-psychiatrist stated that he still believes that the individual must abstain from alcohol in order to lower his risk of relapse to an acceptable level. He testified that since the individual is currently in remission from alcohol dependence, he still must establish a one year period of abstinence and recovery activity to be considered rehabilitated. The DOE consultant-psychiatrist expressed concern that the individual's current social drinking and his attitude toward alcohol use would lead him to relapse into an alcohol dependent condition. TR at 97-98.

While I recognize that individual sincerely believes that he will be able to maintain his moderate level of alcohol consumption, I accept the DOE consultant-psychiatrist's expert opinion that the individual's decision to continue consuming alcohol carries with it a high level of risk that the individual will develop future alcohol-related problems. Therefore, the individual's intention to continue consuming alcohol poses an unacceptable security risk to the DOE.

Finally, the individual asserts that he places a high priority on his employment with his DOE contractor and therefore can be trusted not to jeopardize that employment by abusing alcohol in the future. This assertion does not mitigate the DOE's concerns. As the testimony of the DOE consultant-psychiatrist makes clear, alcohol abuse is an insidious problem that is not always susceptible to an individual's conscious control. As the DOE consultant-psychiatrist explained at the hearing, a year of sobriety and recovery, as well as a commitment to ongoing abstinence, are necessary to provide the individual with the experience, skills and motivation to avoid abusing alcohol in the future.

#### *B. Criterion (1) Concerns*

With respect to Criterion (1), the Notification Letter finds that information in its possession indicates that the individual has engaged in unusual conduct or is subject to circumstances which tend to show that he is not honest, reliable, or trustworthy; or which furnishes reason to believe that he may be subject to pressure, coercion, exploitation, or duress which may cause him to act contrary to the best interests of the national security. In this regard, the Notification Letter refers to the individual's alcohol related arrests 1973, 1978, 1991 and 1994. It states that he did not list the 1973 and 1978 arrests on his 2001 Questionnaire for Sensitive Positions (QNSP), and that he once indicated to an OPM investigator that he was arrested for DUI in 1987 and did not

subsequently report or discuss this arrest with the DOE. The Notification Letter also finds that the individual's decision to continue drinking alcohol with his history of alcohol problems raises a Criterion (1) concern.

With respect to the individual's failure to accurately report the dates of some of his DUIs, the security specialist testified that the individual had admitted at various DOE interviews over the last four years that he had incurred multiple DUIs in the 1970's and 1980's and that in 2001 he could not specifically recall the dates of all of those DUIs. TR at 21. I accept the individual's explanation that his failure to report certain DUIs that occurred more than thirteen years before he filled out his QNSP was the result of poor memory caused by his heavy consumption of alcohol during those years. I do not believe that these omissions indicate an attempt to mislead the DOE. Accordingly, I find that this part of the Criterion (1) concerns has been mitigated.

The DUI arrests themselves clearly are the result of the individual's alcohol dependence during the years when they were incurred, and are not the type of unusual behavior that is properly raised as an independent security concern in this case. Similarly, the individual's decision to continue drinking with his history of alcohol problems also arises from his alcohol dependence. Therefore, if the DOE were to resolve the Criterion (j) security concerns in the individual's favor, these DOE concerns listed under Criterion (1) would be mitigated.

## V. CONCLUSION

For the reasons set forth above, I find that the individual suffers from alcohol abuse subject to Criterion (j). Further, I find that this derogatory information under Criterion (j) has not been mitigated by sufficient evidence of rehabilitation or reformation. With respect to the DOE's Criterion (1) concerns, I find that the individual has mitigated his failure to identify on his 2001 QNSP all of the DUIs that he received in the 1970's and 1980's. The DOE's other Criterion (1) concerns remain unmitigated. Accordingly, after considering all the relevant information, favorable or unfavorable, in a comprehensive and common-sense manner, I conclude that the individual has not yet demonstrated that granting him access authorization would not endanger the common defense and would be clearly consistent with the national interest. It therefore is my conclusion that the individual should

not be granted access authorization. The individual may seek review of this Decision by an Appeal Panel under the regulation set forth at 10 C.F.R. § 710.28.

Kent S. Woods  
Hearing Officer  
Office of Hearings and Appeals

Date: October 18, 2004